

IC 33-35-5

Chapter 5. Records; Procedures; Practices

IC 33-35-5-1

City court; governing laws and rules

Sec. 1. City courts are governed by the laws and rules governing the practice, pleading, and processes in circuit courts.

As added by P.L.98-2004, SEC.14.

IC 33-35-5-2

City or town court; change of venue

Sec. 2. A change of venue may not be taken from a city or town court. However, a defendant may take a change of venue from the judge of the court, with a special judge appointed as provided for the circuit court.

As added by P.L.98-2004, SEC.14.

IC 33-35-5-3

City court; warrants or other processes

Sec. 3. All warrants or other processes issued by the city court must be:

- (1) directed to the chief of police of the city or any person specially deputized by the city court; and
- (2) executed, served, and returned by the chief, by any police officer of the city, or by the specially deputized person.

The members of the police force of the city shall cause all persons arrested by the police force for a violation of any law to be taken before the city court for trial or examination.

As added by P.L.98-2004, SEC.14.

IC 33-35-5-4

Certain city courts; books of records in civil cases

Sec. 4. (a) City courts of the three (3) cities having the largest populations in counties having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) shall keep the following books of record on the civil side of the court:

- (1) A loose leaf minute book, similar to that kept by the circuit court, each case to be numbered consecutively in order of its filing.
- (2) Index and cross-index book, containing the names of all parties to each action with the number of the case opposite the name.
- (3) A fee book as is provided for city courts.
- (4) An order book in which all orders of a cause are written consecutively when final judgment or order is entered.

(b) The case should bear the same number as originally given to the case when filed and must be arranged in the order book

consecutively according to the original number given to the case when filed. All orders, proceedings, records of issuing execution, returns of execution, and satisfactions of execution shall be grouped together, if practical, on one (1) page or on consecutive pages when there is not sufficient room to group it on one (1) page. All costs in a cause shall be taxed on the margin of the page containing the final order or judgment. All orders not connected with a specific case, such as general appointments made by the judge, shall be entered in the minute book under a separate number and recorded in the record book under that number.

As added by P.L.98-2004, SEC.14.

IC 33-35-5-5

City court; issues of fact to be tried by judge unless demand for jury trial

Sec. 5. All issues of fact pending in city courts shall be tried by the judge, unless either party demands a jury trial. The jury must consist of six (6) qualified residents of the city, to be summoned by the bailiff by venire issued by the judge. City residents shall be selected for jury service according to the procedures set out in IC 33-28-5.

As added by P.L.98-2004, SEC.14. Amended by P.L.118-2007, SEC.25.

IC 33-35-5-6

Style of city or town court

Sec. 6. The style of the city or town court is "The (City or Town) Court of _____," according to the name of the city or town.

As added by P.L.98-2004, SEC.14.

IC 33-35-5-7

Courts not of record; judges; requirements

Sec. 7. (a) A city court is not a court of record.

(b) A town court is not a court of record.

(c) Except as provided in section 7.5 of this chapter, a person selected as judge of a city court or town court must be an attorney in good standing admitted to the practice of law in Indiana.

As added by P.L.98-2004, SEC.14. Amended by P.L.173-2015, SEC.16.

IC 33-35-5-7.5

Presiding judge exemption to judicial eligibility requirements

Sec. 7.5. (a) This section applies to a person who is a judge of a city or town court:

(1) serving on June 30, 2015; and

(2) who is not an attorney in good standing admitted to the practice of law in Indiana.

(b) This section does not apply to a person described in subsection

(a) after the person leaves office.

(c) A person described in subsection (a) may:

(1) complete the term to which the person was elected before July 1, 2015; and

(2) after that, continue to serve consecutive elected terms.

As added by P.L.173-2015, SEC.17.

IC 33-35-5-8

Effect of judgments, orders, and proceedings in town and city courts; orders of sale and executions affecting real estate

Sec. 8. (a) All judgments, decrees, orders, and proceedings of city and town courts have the same force as those of the circuit court. A judgment becomes a lien on real estate when a transcript of the judgment is filed with the clerk of the circuit court.

(b) All orders of sale and executions affecting real estate from the city court of the three (3) cities having the largest populations in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) shall be issued by the clerk of the circuit court to the sheriff upon the filing of a certified copy of the judgment. When the copy is filed, the court rendering the judgment has no further jurisdiction of the case except to furnish a transcript for appeal. The life of a lien may be continued in force when the action is started in the city court, as though the action were filed in the circuit court, by filing with the clerk of the circuit court a certificate, certified to by the judge of the city court and containing:

(1) the names of the parties to the suit;

(2) the nature of the action;

(3) the description of the property affected; and

(4) the amount in controversy.

The judge shall enter minutes on the docket showing the issuing of the certificates.

As added by P.L.98-2004, SEC.14.

IC 33-35-5-9

Appeals from city and town courts; procedure

Sec. 9. (a) An appeal from a judgment of a city court may be taken to the circuit, superior, or probate court of the county and tried de novo.

(b) An appeal from a judgment of a town court may be taken to the superior, circuit, or probate court of the county within thirty (30) days after the rendition of the judgment and tried de novo.

(c) A prisoner against whom punishment is adjudged by a city court may appeal to the circuit, superior, or probate court of the county within thirty (30) days after the judgment. If the prisoner, within the thirty (30) days, enters into recognizance for the prisoner's appearance in court and causes to be filed in the court, within forty-five (45) days, all other papers, documents, and transcripts necessary to complete the appeal, the appeal stays all further proceedings on the judgment in the court below. However, the prisoner may remain in jail on the prisoner's sentence instead of

furnishing a recognizance, and an appeal without recognizance does not stay the execution of the court below.

As added by P.L.98-2004, SEC.14. Amended by P.L.201-2011, SEC.100.

IC 33-35-5-10

Appeals from certain city and town courts; procedure

Sec. 10. (a) A party in a civil action who desires to take an appeal from the city court of the three (3) cities having the largest populations in a county having a population of more than four hundred thousand (400,000) but less than seven hundred thousand (700,000) shall file a bond, to the approval of the city court, within thirty (30) days after the date of rendition of final judgment, and the motion to correct errors within ten (10) days after the rendition of final judgment. The transcript and motion shall be filed in the court to which the appeal is taken within thirty (30) days after the motion has been signed by the court.

(b) All errors saved shall be reviewed as far as justice warrants, and for that purpose, a complete transcript of all the evidence is not required. An error occurring during the trial, not excepted to at the time, may be made available upon appeal by setting it forth in a motion for a new trial. Upon application within the time fixed, either of the parties to the suit may obtain either:

- (1) a correct statement, to be prepared by the party requesting the signing of the same, of the facts in a narrative form appearing on the trial and of all questions of law involved in the case and the decisions of the court upon the questions of law; or
- (2) a correct stenographic report;

and the expense of procuring the correct statement or correct stenographic report shall be paid by the party requesting the correct statement or correct stenographic report.

(c) The appeal shall be:

- (1) submitted on the date filed in the court to which the appeal is taken;
- (2) advanced on the docket of that court; and
- (3) as determined at the earliest practical date, without any extension of time for filing of briefs;

but the court to which an appeal is taken may, on application, hear oral arguments.

(d) If judgment is affirmed on appeal, it may be increased by ten percent (10%), in addition to any interest that may be allowed, if the appeal is found to be frivolous.

(e) A change of venue may be taken from the judge to whom the case is appealed as provided by law for taking changes of venue from the judge of the circuit court.

(f) The court to which an appeal is taken shall render its opinion in abbreviated form by simply citing the controlling authorities in the case, unless it appears that some new question of practice, procedure, or law is involved that would warrant a more extensive opinion.

As added by P.L.98-2004, SEC.14.